

### REMARKS

Claims 1-4, 7-10 and 18 are rejected under the judicially created doctrine of obviousness-type double patenting. A terminal disclaimer is entered with this Amendment and is believed to obviate the double patenting rejection. Reconsideration and withdrawal of the double patenting rejection in view of the terminal disclaimer is respectfully requested.

Claim 1 was rejected under 35 U.S.C. 112, second paragraph, in that the phrase "other protein products" is found to be ambiguous. This ground of rejection is traversed. The text of the claim clearly sets forth that plant tissue is being extracted so that all of the proteins present in the extract will have come from the plant tissue being extracted. The independent claims have been amended to recite specifically that raw potato tubers are being extracted; consequently it is clear that the "other protein products" are potato proteins that are extracted simultaneously with the proteinase inhibitor. Reconsideration and withdrawal of the 112 rejection is respectfully requested.

Claims 1, 4-5, 7-12 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borud for the reasons of record. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borud and further in view of Pearce for the reasons of record. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borud and further in view of Ryan for the reasons of record. It is noted that claims 2 and 3 are not rejected in the Office Action except under the double patenting section. The independent claims have been amended to recite that raw potato tubers are being extracted and further to limit the choice of organic acids used in the extraction medium to the Markush group consisting of acetic, ascorbic, citric and formic acid. It is believed that these amendments patentably distinguish the present invention over the cited references, which rely on sulfur dioxide, strong acids, and/or ethanol to be present in the extraction medium. Reconsideration and withdrawal of the 103 rejection in view of the amendment to claim 1 is respectfully requested. Since the remaining claims are either dependent on claim 1 or also include the same limitation (new claims 17 and 18), they also are patentably distinct.

The application has been amended to correct minor informalities, to further distinguish the application over the prior art, and to more particularly point out and distinctly claim the subject matter that Applicant regards as the invention so as to place the application, as a whole,

into a prima facie condition for allowance. Great care has been taken to avoid the introduction of new subject matter into the application as a result of the foregoing modifications.

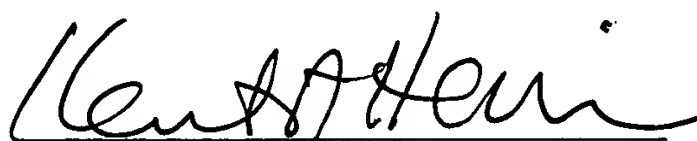
Accordingly, the purpose of the claimed invention is not taught nor suggested by the cited references, nor is there any suggestion or teaching which would lead one skilled in the relevant art to combine the references in a manner which would meet the purpose of the claimed invention. Because the cited references, whether considered alone, or in combination with one another, do not teach nor suggest the purpose of the claimed invention, Applicant respectfully submits that the claimed invention, as amended, patentably distinguishes over the prior art, including the art cited merely of record.

Based on the foregoing, Applicant respectfully submits that its claims 1-7 and 12-18, as amended, are in condition for allowance at this time, patentably distinguishing over the cited prior art. Accordingly, reconsideration of the application and passage to allowance are respectfully solicited.

The Examiner is respectfully urged to call the undersigned attorney at (515) 288-2500 to discuss the claims in an effort to reach a mutual agreement with respect to claim limitations in the present application which will be effective to define the patentable subject matter if the present claims are not deemed to be adequate for this purpose.

Respectfully submitted,

Date: October 28, 2005



Kent A. Herink  
Registration No. 31,025  
DAVIS, BROWN, KOEHN,  
SHORS & ROBERTS, P.C.  
666 Walnut St., Suite 2500  
Des Moines, Iowa 50309  
Telephone: (515) 288-2500

ATTORNEYS FOR APPLICANT